

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

CODY A. MADONIA,

Plaintiff,

6:21-cv-00069 (BKS/TWD)

v.

DONALD MOORE, individually and in his capacity as an
investigator for the New York State Police Department,

Defendant.

Appearances:

For Plaintiff:

R. Anthony Rupp, III
Chad A. Davenport
Rupp Baase Pfalzgraf Cunningham LLC
424 Main Street
1600 Liberty Bldg.
Buffalo, NY 14202

For Defendant:

Letitia James
Attorney General of the State of New York
Kasey K. Hildonen
Assistant Attorney General, of Counsel
The Capitol
Albany, NY 12224

Hon. Brenda K. Sannes, United States District Judge:

ORDER ON DEFENDANT'S MOTION TO DISMISS

For the reasons discussed at the February 24, 2022 telephone conference, it is hereby

ORDERED that Defendant's motion to dismiss (Dkt. No. 22) is **GRANTED** in part and

DENIED in part, as follows:

Defendant's motion to dismiss the false arrest and false imprisonment claims (the first and second claims) as to the January 2018 arrest is **GRANTED** and those claims are **DISMISSED with prejudice** because Plaintiff's guilty plea to Disorderly Conduct, in violation of New York Penal Law § 240.20(7), arising out of that arrest is sufficient evidence of probable cause to defeat his claims for false arrest and false imprisonment;

Defendant's motion to dismiss the malicious prosecution claim (the third claim) as to the January 2018 arrest is **GRANTED** and that claim is **DISMISSED with prejudice** because, in light of Plaintiff's guilty plea to Disorderly Conduct, in violation of New York Penal Law § 240.20(7), he cannot plausibly allege that the "criminal proceeding ended in a manner that affirmatively indicates his innocence." *Lanning v. City of Glens Falls*, 908 F.3d 19, 22 (2d Cir. 2018);

Defendant's motion to dismiss the due process claim (the fourth claim) is **GRANTED** and that claim is **DISMISSED with prejudice** because Plaintiff has failed to plausibly allege "a material state-imposed burden or state-imposed alteration of the plaintiff's status or rights," necessary for a "stigma plus" due process claim. *Sadallah v City of Utica*, 383 F.3d 34, 38 (2d Cir. 2004);

Defendant's motion to dismiss the false arrest, false imprisonment and malicious prosecution claims regarding Defendant's March 29, 2018 arrest of the Plaintiff is **GRANTED** because Plaintiff agrees that "those claims are premature prior to a resolution of the criminal charges that are still pending," Dkt. No. 25 at 3, and those claims are **DISMISSED without prejudice**;


Defendant's motion to dismiss the 42 U.S.C. § 1983 claims against the Defendant in his official capacity is **GRANTED** and the claims against the Defendant in his official capacity are **DISMISSED without prejudice** for lack of subject matter jurisdiction; and

Defendant's motion to dismiss is otherwise **DENIED**;

The following claims therefore survive Defendant's motion to dismiss: Plaintiff's conspiracy claim (fifth claim), abuse of process claim (sixth claim) and unreasonable search claim (seventh claim).

IT IS SO ORDERED.

Dated: February 24, 2022
Syracuse, New York


Brenda K. Sannes
U.S. District Judge